

July 12, 2019

By ECF

Honorable Ona T. Wang
United States Magistrate Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 20D
New York, New York 10007

Re: Joint status letter in *Natural Resources Defense Council, Inc. v. U.S. Department of the Interior*, No. 1:18-cv-650-OTW

Dear Judge Wang:

Pursuant to the Court's endorsement of the parties' joint status letter of May 13, 2019 (ECF No. 34), the parties respectfully submit this joint status letter regarding the status of Defendants' responses to Plaintiff's Freedom of Information Act (FOIA) requests.

I. Continuing searches and productions by the Department of the Interior

The Department of the Interior is continuing to make monthly productions in response to Plaintiff's FOIA requests (and other FOIA requests) by posting responsive records on its public website. Interior is also producing *Vaughn* indices for each monthly production. Assuming Interior continues processing and posting responsive documents and producing *Vaughn* indices on a monthly basis, and assuming other circumstances do not change, the parties agree that the pace and manner of production is satisfactory.

II. Follow-up relating to the Department of Commerce's search

As described in the parties' previous joint status letter of May 13, 2019, the Department of Commerce has completed certain additional searches for responsive documents using the singular forms of particular search terms agreed to by the parties. Commerce has identified some responsive documents through those searches and is currently processing them for release. Commerce made a partial production of documents on July 12, 2019, and it is currently consulting with other agencies regarding the remaining documents identified through its additional searches. Commerce anticipates that this consultation process will be complete and that it will be able to produce any additional non-exempt, responsive records by August 13, 2019. If, however, it appears that the consultation process will not be completed in time for Commerce to complete the remaining production by August 13, 2019, then Commerce will so notify Plaintiff by August 1, 2019, and will seek to negotiate an alternate production date with Plaintiff. Additionally, Commerce has agreed to provide an informal privilege log describing the basis for any redactions under FOIA Exemption (b)(5) in its new productions, which it has agreed to provide to Plaintiff under the condition that the log may be used for settlement purposes only and may not be used by Plaintiff for any other purposes, whether in this litigation

or otherwise. Commerce proposes to produce this privilege log by August 13, 2019, when it completes its production from the agreed-upon additional searches.

III. Proposed next steps

In light of the foregoing, the parties respectfully offer the following proposals:

(1) Interior will continue processing 1,500 pages of documents potentially responsive to Plaintiff's and other national monuments-related FOIA requests each month, and will produce any and all non-exempt, responsive documents on the 15th day of each month (or the following business day, if the 15th falls on a weekend or holiday), along with accompanying *Vaughn* indices.

(2) Commerce will produce any additional non-exempt, responsive documents identified during the additional searches agreed to by the parties, plus a corresponding privilege log, by August 13, 2019. If it appears that Commerce's consultation process with other agencies will not be complete in time for the August 13th deadline, Commerce will so notify Plaintiff by August 1, 2019, and the parties will seek to negotiate an alternate production deadline.

(3) The parties will file another joint status report within 60 days—by September 10, 2019—at which time they will update the Court on the progress of the next steps described above.

Respectfully submitted on this 12th day of July, 2019,

/s/ Katherine Desormeau
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